



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF  
ADMINISTRATIVE SERVICES  
1200 K STREET, N.W.  
WASHINGTON, D.C. 20460

Everglades  
Default

MAY 28 2004

Mimi Drew, Director  
Division of Water Resource Management  
Florida Department of Environmental Protection  
Twin Towers Office Building  
Mail Station 3500  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Dear Ms. Drew:

The Environmental Protection Agency (EPA) has completed its review of subparagraph 4(e)(2) of Fla. Stat. Ann. Section 373.4592, the Everglades Forever Act (EFA), that was originally enacted on May 3, 1994. EFA subparagraph 4(e)(2), states, "The phosphorus criterion shall be 10 parts per billion (ppb) in the Everglades Protection Area in the event the department does not adopt by rule such criterion by December 31, 2003." Since the phosphorus rule has been administratively challenged, the rule has not been "adopted" within the meaning of the EFA, and the "default" phosphorus criterion of 10 ppb became effective under State law as a revision to Florida's water quality standards on January 1, 2004. The State of Florida submitted the default numeric criterion to EPA on May 28, 2004, and EPA is reviewing it under the requirements of section 303(c) as a new or revised State water quality standard.

Your submittal provides that "... the statutory default criterion will not be assessed as a 'maximum not to be exceeded at any time' as are the existing criteria set forth in Rule 62-302.530, F.A.C.," but, rather "... compliance with the 10 ppb default criterion will be assessed as a long-term geometric mean, taking into account spatial and temporal variability..." As you note, EFA subparagraph 4(e)(2) states, "The department's phosphorus criterion, whenever adopted, shall supersede the 10 parts per billion (ppb) criterion otherwise established by this section, but shall not be lower than the natural conditions of the Everglades Protection Area and shall take into account spatial and temporal variability."

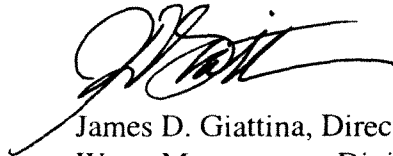
In December 2000, EPA published a Clean Water Act section 304(a) water quality criterion for total phosphorus for the Everglades ecosystem in *Ambient Water Quality Criteria Recommendations Information Supporting the development of State and Tribal Nutrient Criteria*

for Wetlands in Nutrient Ecoregion XII, EPA 822-B-00-023. The recommended numeric criterion is 10 ppb of total phosphorus in the water column as a long-term value.

EPA has determined that the "default" water quality criterion established by subparagraph 4(e)(2) of the EFA, implemented as a long term value taking into account spatial and temporal variability, complies with the provisions of 40 CFR Section 131.11 and the Clean Water Act. Based on the authorities of section 303(c) of the Clean Water Act, EPA approves the "default" water quality criterion established in EFA subparagraph 4(e)(2) as a revision to Florida water quality standards. This action is consistent with our consultation obligations under the Endangered Species Act.

If you have any questions concerning this action, please do not hesitate to call me at 404 562-9470, or Gail Mitchell, Chief of the Standards, Monitoring and Total Maximum Daily Load Branch at 404 562-9234.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Giattina', with a stylized flourish extending from the end.

James D. Giattina, Director  
Water Management Division